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Human rights bodies and mechanisms

Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*

Report of the Secretary-General

Summary

The present report is submitted pursuant to Human Rights Council resolution 12/2. In the report, the Secretary-General highlights relevant initiatives and efforts made by the United Nations system and other stakeholders in tackling the issue of reprisals. It contains information on alleged acts of intimidation and reprisal against individuals and groups for seeking to cooperate, cooperating or having cooperated with the United Nations, its representative and mechanisms in the field of human rights gathered from 1 June 2014 to 31 May 2015, including follow-up information on cases discussed in the previous two reports.

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Contents

		Page
I.	Introduction	3
II.	Developments in response to acts of intimidation and reprisal	3
III.	Information received on cases of reprisal for cooperation with the United Nations, its representatives and mechanisms in the field of human rights	5
	A. Methodological framework	5
	B. Summary of cases	6
IV.	Conclusions and recommendations	15
Annex	Follow-up information on cases of reprisal included in previous reports	17

I. Introduction

1. In its resolution 12/2, the Human Rights Council condemned all acts of intimidation and reprisal against individuals and groups who seek to cooperate, are cooperating or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights committed by State and non-State actors. As mandated by resolution 12/2, I have reported annually on cases of alleged intimidation and reprisals and analysed relevant developments within the United Nations system and made recommendations on how to address this issue.

2. As I have stressed in my previous reports, all acts of intimidation and reprisal, no matter how subtle or explicit, are completely and utterly unacceptable and should be halted immediately and unconditionally. The targeting of individuals or groups seeking to cooperate, cooperating or having cooperated with the United Nations in the field of human rights, their families, legal representatives and affiliated non-governmental organizations runs contrary to the principle of human dignity and violates numerous human rights, showing complete contempt and disregard for the United Nations system as a whole.

II. Developments in response to acts of intimidation and reprisal

3. On 8 September 2014, the United Nations High Commissioner for Human Rights, in his opening statement to the Human Rights Council at its twenty-seventh session, condemned all acts of reprisal against individuals for their engagement with the United Nations stressing that their continued support and contributions are needed to realize progress and encouraging the Council to ensure that their voices can be raised safely. On 22 October 2014, in his address to the General Assembly at its sixty-ninth session, he added that "if despite all the power and authority at its disposal, the future of a Government hangs on a tweet, a street protest or a helpful report to an NGO or UN agency, then that Government is in far deeper trouble than it believes. For it has forgotten the fundamental principle that the State is the servant of its people – not the other way round". On 2 March 2015, at the twenty-eighth session of the Council, he appealed to States to "focus on the substance of the complaint rather than lash out at the critic".

4. On 25 February 2015, the Director-General of the United Nations Office at Geneva, during the annual civil society briefing, stated that he would continue to work closely with the Office of the High Commissioner (OHCHR) and remain vigilant to situations of intimidation and reprisals. While awaiting further action on Human Rights Council resolution 24/24 by the General Assembly, I welcome the proactive stance of the different United Nations human rights representatives and mechanisms and their recent steps taken towards providing a coherent and coordinated response to reprisals.

5. Over the past year, the Presidency of the Human Rights Council has developed a consistent approach to all cases of intimidation or reprisal relating to the Council, its mechanisms and procedures brought to its attention. During the twenty-seventh session, on 19 September 2014, and at each subsequent session, the President reminded those present of the Council's firm position that any act of intimidation or reprisal against individuals or groups, or anyone linked to them, is unacceptable, and that all such cases brought to the President's attention would be followed up bilaterally with the States concerned. During his closing statement at the twenty-eighth session, on 27 March 2015, the President expressed his alarm at the continued reports of intimidation and reprisals against those that sought to cooperate with the Council, and stated that much more needed to be done to stop these attacks.

6. At the twenty-seventh session of the Human Rights Council, a number of States drew attention to the issue of reprisals by referring to my report (A/HRC/27/38) and expressed their concern and condemnation of such acts. In addition, further to the roles and responsibilities of States and the United Nations system in addressing the issue of reprisals specified in several Council resolutions, the Council, in its resolution 27/18, recognized the role that national human rights institutions can play in preventing and addressing cases of reprisal as part of supporting the cooperation with the United Nations in the promotion of human rights.

7. At their 26th annual meeting, held from 23 to 27 June 2015, the Chairpersons of human rights treaty bodies reiterated their strong condemnation of intimidation and reprisals against persons seeking to engage with the treaty bodies and invited all treaty bodies that had not yet done so to establish the mandate of rapporteur on reprisals (A/69/285, paras. 107-109). In follow-up to the meeting, the Subcommittee on Prevention of Torture announced on 26 February 2015 that it had appointment one of its members as a reprisals focal point. At their 27th meeting, held from 22 to 26 June 2015, the Chairpersons further developed and adopted a set of guidelines against intimidation or reprisals, the "San José Guidelines" (HRI/MC/2015/6).

8. When presenting the annual report of the special procedures to the Human Rights Council at its twenty-eighth session (A/HRC/28/41), the Chairperson of the Coordination Committee of Special Procedures stressed that the ability of individuals and groups to raise concerns with special procedures without fear of reprisals was vital to their ability to discharge their respective mandates. He stressed that reprisals are a critical challenge facing not only special procedures but the whole United Nations system. A coordinated response to these unacceptable practices should therefore come from the United Nations system as a whole. While referring to Council resolution 24/24, he reiterated the support of the special procedures for the designation of a United Nations focal point on reprisals.[1] Several special procedure mandate holders individually also raised concerns over acts of intimidation and reprisal; some even reported that they had witnessed such acts being committed in person during country visits, and called upon the Council to take action on these cases (A/HRC/28/66/Add.2, para. 84 (c) and A/HRC/29/25/Add.2, paras. 13-17). In follow-up to the annual meeting of the special procedures in 2014, at which mandate holders had identified the need to develop a systematic approach to the issue of reprisals, they adopted modalities for an enhanced response to the issue at their meeting in 2015 and decided to appoint a focal point on reprisals from among Coordination Committee members.

9. In my previous report, I referred to the concerns expressed by various stakeholders over the large number of deferrals of applications of non-governmental organizations for consultative status with the Economic and Social Council by the Committee on Non-Governmental Organizations (A/HRC/27/38, para. 8). The Special Rapporteur on the rights to freedom of peaceful assembly and of association reflected similar concerns in his most recent report to the General Assembly (A/69/365, paras. 73-74 and 88 (a)). The Committee has a key role to play in ensuring that non-governmental organizations may participate in the work of the United Nations and have access to human rights mechanisms. I call on the Committee to apply the criteria for assessing non-governmental organizations in a fair and transparent manner.

10. I reiterate my strong belief that the issue of reprisals needs a consistent approach at international and regional levels. In this context, I reiterate my appreciation for the strong stance taken by the Secretary-General of the African Commission on Human and Peoples' Rights, as expressed on 26 June 2014 during the twenty-third African Union summit. The

[1] OHCHR, "François Crépeau, the Chairperson of the Coordination Committee, presents the annual report of special procedures to the Council", 18 March 2015.

Commission focal point on reprisals stated at its fifty-sixth ordinary session that there was a genuine need to pursue dialogue with all stakeholders and to put in place mechanisms that are both persuasive and deterrent, and indicated that a road map had been elaborated for that purpose and that a detailed report on cases of reprisals would be presented at each session.[2] Both the Inter-American Commission on Human Rights and the Commissioner on Human Rights of the Council of Europe have also publicly denounced acts of intimidation and reprisal against individuals and organizations cooperating with them.[3] I encourage the United Nations, its representatives and mechanisms and their regional counterparts to continue to strengthen cooperation and mutually reinforce each other's efforts in addressing reprisals.

III. Information received on cases of reprisal for cooperation with the United Nations, its representatives and mechanisms in the field of human rights

A. Methodological framework

11. The present report covers information gathered from 1 June 2014 to 31 May 2015 and, in accordance with Human Rights Council resolution 12/2, contains information on acts of intimidation or reprisal against those who:

- Seek to cooperate, or have cooperated with, the United Nations, its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them
- Avail or have availed themselves of procedures established under the auspices of the United Nations for the protection of human rights and fundamental freedoms, and all those who have provided legal or other assistance to them for that purpose
- Submit or have submitted communications under procedures established by human rights instruments, and all those who have provided legal or other assistance to them for that purpose
- Are relatives of victims of human rights violations or of those who have provided legal or other assistance to victims

12. Information about acts of intimidation and reprisal has been received in relation to cooperation with OHCHR, including its field presences, the Human Rights Council, the universal periodic review mechanism, human rights treaty bodies, the special procedures, the commission of inquiry on Eritrea and the independent commission of inquiry on the 2014 Gaza conflict. The information was verified and corroborated by primary and other sources, where available, and in most cases reference was made to the United Nations publication in which the information included in the present report was first made public. The report also reflects public responses or reactions from Governments received by 31 July 2015.

13. Additional information received on cases included in my previous two reports has been included under the follow-up section (see annex).

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[2] Inter-session report of Commissioner Gansou, May 2014 – April 2015, African Commision on Human and Peoples' Rights, fifty-sixth ordinary session.

[3] See Organization of American States, "IACHR wraps up its 154th session", 27 March 2015, and annual activity report 2014 by Nils Muižnieks, Council of Europe Commissioner for Human Rights.

14. It should be recalled that the cases included in the present report are not exhaustive. They are examples of a larger number of mostly invisible cases. In accordance with the principle of do no harm, risk assessments were conducted on a case-by-case basis, resulting in the exclusion of those cases where the risk to the safety and well-being of the individuals concerned was deemed too high.

B. Summary of cases

1. Bahrain

15. On 14 October 2014, a number of special procedure mandate holders raised concerns over possible acts of reprisal against Nabeel Rajab, President of the Bahrain Center for Human Rights, in connection with his arrest and detention on 1 October 2014, a day after returning to Bahrain from Europe where he had met with representatives of OHCHR (A/HRC/28/85, case BHR 13/2014). The Government, in its response dated 24 November 2014 (ibid.), stated that there had been no reprisals but that Mr. Rajab had been charged with publicly defaming the Ministry of the Interior and security forces in relation to statements that he had posted on his Twitter account, and that the court had ordered his release pending trial but banned him from travelling. In its letter on reprisals of 13 May 2015, the Committee against Torture expressed its fear that Mr. Rajab might have been rearrested and detained on 2 April 2015, this time in connection with the submission by the Bahrain Center for Human Rights of an alternative report submitted to the Committee for its fifty-fourth session. Following his arrest, Mr. Rajab was reportedly detained at the Isa Twon detention centre and his house raided by government security forces. The Ministry of the Interior reportedly subsequently announced that Mr. Rajab had been "captured" after publishing information that would harm civil peace and insulting a statutory body. As reported by the Committee in its letter on reprisals of 13 May 2015, on 11 May 2015, the High Court of Bahrain reportedly extended Mr. Rajab's detention by 15 days. At the time of finalization of the present report, no response to the letter sent by the Committee had been received from the Government.

2. Burundi

16. The Committee against Torture, in its letter on reprisals of 25 November 2014, referred to allegations of serious threats against Pacifique Nininahazwe, President of Forum pour la conscience et le développement, following his briefing to the Committee in relation to its consideration of the second periodic report of Burundi at its fifty-third session (CAT/C/BDI/2). On 28 November 2014, the Committee addressed a second letter to the Government in which it stated that it had also been informed of serious threats against Mr. Nininahazwe's family. In its reply of 5 December 2014, the Government denied the allegations, stating that while no one would be prosecuted for the legal exercise of their human rights work, no one was above the law and the defence of human rights could not be invoked as grounds for violating the law.

3. China

17. In its concluding observations on the seventh and eighth periodic reports of China, the Committee on the Elimination of Discrimination against Women expressed concern that some reports that it received from non-governmental organizations had been censored by State agents and that some organization representatives feared reprisals by the State party as a result of their submission (see CEDAW/C/CHN/CO/7-8, paras. 32-33; see also CEDAW/C/SR.1251, paras. 21, 33, 58 and 61). The Committee also expressed concern at reports of travel restrictions imposed on at least one woman human rights activist who intended to brief the Committee, and recommended that the Government take all necessary measures to protect women human rights defenders and to ensure that no such travel

restrictions would be placed on anyone in the future. It also recommended that allegations that State agencies censored reports submitted by non-governmental organizations be investigated, and that preventive measures for non-occurrence be taken. When requested to comment on these concerns during the consideration of the report, a member of the delegation of China stated that the Government welcomed the efforts of non-governmental and civil society organizations to promote women's rights and that they were not subject to reprisals of any kind for their work (CEDAW/C/SR.1251, para. 61).

4. Cyprus

18. On 5 June 2014, the Committee against Torture, in a letter on reprisals, and a number of special procedure mandate holders referred to allegations of reprisals against Doros Polykarpou, Executive Director of Action for Support, Equality and Antiracism, for having submitted an alternative report on the situation of detained undocumented migrants, including at the Mennogeia Detention Centre, to the Committee prior to the consideration of the State's fourth periodic report (CAT/C/CYP/4) at its fifty-second session (see also A/HRC/28/85, case CYP 3/2014). On 29 May 2014, a few days after the Committee published its concluding observations, Mr. Polykarpou was reportedly arrested upon arrival at the detention centre by its administration for failing to pay a parking fine and transferred to the Central Prison in Nicosia, placed in a wing with convicted prisoners and denied access to a lawyer and drinking water. Mr. Polykarpou was released later that day after his organization paid the fine. The Government, in its response of 5 August 2014 to a communication by mandate holders, stressed that it attributed great significance to human rights instruments and had provided information on the arrest warrants issued against Mr. Polykarpou (see A/HRC/28/85, case CYP 3/2014). Taking into account the seriousness of the allegations, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, in his report submitted to the Human Rights Council at its twenty-eighth session, requested additional information (A/HRC/28/68/Add.1, paras. 130-133). At the time of finalization of the present report, the Government had not responded to the latest request of the Special Rapporteur or the letters addressed by the Committee.

5. Eritrea

19. The risk of reprisals against anyone cooperating with the commission of inquiry on human rights in Eritrea, or their relatives still residing in the country, was one of the main challenges that the commission faced in carrying out its mandate. Regardless of the country or location, almost all victims and witnesses in contact with the commission assumed that they were still being monitored in secret and were afraid to testify, even on a confidential basis, out of fear for reprisals by the Eritrean authorities against themselves and their family members residing in Eritrea. The commission witnessed one specific episode of such monitoring, and recalled that it is the primary responsibility of the States of nationality or residence to protect all persons who cooperated with it, and urged Member States to provide additional protection where necessary (A/HRC/29/42, paras. 17-18). During the interactive dialogue on the report at the twenty-ninth session of the Human Rights Council, the Government did not address the allegations of reprisals.

6. Gambia

20. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on extrajudicial, summary or arbitrary executions reported that their joint visit to the Gambia early in November 2014 had been conducted in an atmosphere of apprehension and genuine fear among civil society, victims, witnesses and other interlocutors about possible reprisals (A/HRC/28/68/Add.4, para. 96,

A/HRC/29/37/Add.2, paras. 80-81).[4] Despite assurances received from the Government that none of the individuals cooperating with the mandate holders would be threatened, harassed or punished, it was reported that some of the individuals no longer residing in the Gambia were after the visit being pursued by the authorities. Even though it was difficult to verify this information, the Special Rapporteur on torture received information concerning one such case that he considered credible.With regard to the report of the Special Rapporteur on summary or arbitrary executions, the Government expressed its dismay at the "biased manner" in which the report had been presented, stating that the allegations that it contained were unsubstantiated and lacked merit (A/HRC/29/37/Add.6, para. 1).

7. Honduras

21. On 5 May 2015, a number of special procedure mandate holders raised allegations of acts of intimidation against members of Plataforma EPU, a network of 51 civil society organizations, for their engagement with the universal periodic review process of Honduras prior to its review on 8 May 2015 (A/HRC/30/27, case HND 1/2015). On 6 and 7 April 2015, government officials reportedly publicly warned the national and international community of a smear campaign initiated by certain non-governmental organizations meant to taint the image of the country in the context of its review. On 9 April, the National Commissioner for Human Rights reportedly warned that certain groups might use events to pursue their own interests, referring specifically to the information submitted by non-governmental organizations for the review of Honduras. The media allegedly repeated these stigmatizing declarations for several days, including on 10 April, when they alleged that certain groups intended to sabotage the review of Honduras. On 13 April, in a public statement, a parliamentarian reportedly implied that these organizations received payments for discrediting the country (ibid.). At the moment of finalization of the present report, no response had been received from the Government.

8. Islamic Republic of Iran

22. On 11 June 2014, a number of special procedure mandate holders expressed grave concerns at allegations of reprisals against Omid Behrouzi, Behnam Ebrahimzadeh, Mohammad Sadiq Kabudvand, Sa'id Matinpour, Hossein Ronaghi-Maleki and Abdolfattah Soltani, all human rights defenders, detained in Evin prison, owing to the engagement of some of them with the United Nations human rights mechanisms (A/HRC/28/85, case IRN 9/2014). On 17 April 2014, during an inspection of detainees' personal effects in ward 350 of Evin prison, the six men, together with other detainees, were reportedly severely beaten by prison guards and security agents and transferred to solitary confinement for a period ranging from several days to two months. On 22 April 2014, the Speaker of the National Security Committee of Parliament reportedly justified the raid by attributing it in part to "a series of fabricated and unfounded reports" that had been passed on from inside Evin prison to "defiant elements such as the Special Rapporteur on the situation of human rights in Iran" (ibid.). At the time of finalization of the present report, no response had been received from the Government.

23. On 15 July 2014, a number of special procedure mandate holders, referred to allegations of reprisals against Hadi Esmaeilzadeh, a human rights lawyer and former member of the Defenders of Human Rights Centre, which was forcibly closed in December 2008 (A/HRC/28/85, case IRN 12/2014). On 31 May 2014, the Islamic Revolutionary Court sentenced Mr. Esmaeilzadeh to three years in prison for his involvement with the Defenders of Human Rights Centre, and to an additional year of imprisonment for having

[4] See also OHCHR, "The Gambia: UN human rights team prevented from completing torture and killing investigations", 7 November 2014

"spread propaganda against the State" by allegedly sending monthly reports by the Centre to the Human Rights Council and other human rights organizations. In its letter dated 7 January 2015, the Government stated that, as soon as details about Mr. Esmaeilzadeh's case were received from the High Council for Human Rights of the Judiciary of the Islamic Republic of Iran, they would be provided. It pointed out, however, that the allegations of acts of reprisal were not founded and had been denied by Iranian judicial officials (ibid.). At the time of finalization of the present report, the information had not yet been provided by the Government.

24. On 21 October 2014, a number of special procedure mandate holders expressed concerns about reported acts of reprisal against Saeed Shirzad, a human rights activist and member of the Society for Defending Street and Working Children in Iran (A/HRC/28/85, case IRN 25/2014). Mr. Shirzad was arrested on 2 June 2014 by officials from the Ministry of Intelligence in Tabriz and transferred to Evin prison in Tehran, where he was held in solitary confinement for two months. On 18 August, he was allegedly verbally informed of the charges against him, which included cooperation with the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran. In its reply dated 11 June 2015, the Government totally refuted the allegations of reprisals against Mr. Shirzad for cooperating with the Special Rapporteur (A/HRC/30/27, case IRN 25/2014).

25. On 25 November 2014, a number of special procedure mandate holders expressed in a joint communication their concern at reported reprisals against Dr. Mohammad Ali Taheri, who is serving a five-year prison sentence in solitary confinement, and his wife for engaging with the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran (A/HRC/28/85, case IRN 28/2014). In June 2014, media outlets released a letter that Dr. Taheri had addressed to the Special Rapporteur, in which he described human rights violations being committed in prisons in the Islamic Republic of Iran. On 2 July, the authorities reportedly arrested and detained his wife, releasing her only after she pledged to remain silent. A new charge of "corruption on earth" carrying the death penalty was subsequently brought against Dr. Taheri. In response, in October 2014, Dr. Taheri went on a hunger strike and, at the time of transmission of the communication, reportedly risked dying in detention (ibid.). At the time of finalization of the present report, the Government had not provided a response on this case.

26. In the same communication, the mandate holders also referred to reports of reprisals against Mohammad Reza Pourshajari, a blogger, in relation to his engagement with the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran. Mr. Pourshajari was arrested on 30 September 2014 by security forces in Orumieh and held in solitary confinement for 14 days before being transferred to Karaj prison on 14 October while awaiting trial on several charges, including for having been in contact with the Special Rapporteur. In a letter dated 21 April 2015, the Government confirmed the charges against Mr. Pourshajari of "embarking on propaganda against the Islamic Republic of Iran and futile attempt to illegally leave the country", while rejecting the other allegations as "utterly baseless" (A/HRC/29/50, case IRN 28/2014).

9. Israel

27. The independent commission of inquiry on the 2014 Gaza conflict, when presenting its report to the Human Rights Council at its twenty-ninth session (A/HRC/29/52), reported that some sources had feared for possible consequences of testifying before the Commission or of proactively cooperating with it. The Commissioners were disturbed by recent reports on the possible cancellation of national service allocation for Israeli non-governmental organizations in the context of the publication of its report, and added that the organizations cited in the media as potentially affected had in fact not cooperated with the commission. The commissioners pointed out the implications of such actions for the rights of human rights defenders and the right to freedom of opinion and expression.

10. Kazakhstan

28. In relation to his visit to Kazakhstan, the Special Rapporteur on the rights to freedom of peaceful assembly and of association reported that, on 23 January 2015, unidentified men took photographs of individuals leaving the building, in a manner commonly associated with secret police surveillance, where he had just held a meeting (A/HRC/29/25/Add.2, paras. 13-17).[5] The Special Rapporteur submitted a formal complaint to the authorities and received reassurances that a full investigation would be conducted. The next day, the authorities informed the Special Rapporteur that they had apprehended an individual who confessed to have taken the photographs; the Special Rapporteur did not, however, identify the man as one of those he had seen. He subsequently affirmed that the incident had been calculated to instil fear and intimidation, and reiterated that the authorities had to guarantee that no one with whom he met would be subjected to reprisals. The Government responded that the allegations were groundless and based on a misunderstanding (A/HRC/29/25/Add.5, para. 6). In his oral statement to the Human Rights Council at its twenty-ninth session, the Special Rapporteur reiterated his dissatisfaction with the incident, stated that the Government's explanation was unconvincing, and urged it to ensure that there would be no reprisals in relation to his visit. Kazakhstan, in its oral reply to the Special Rapporteur's statement, did not address the allegations of reprisals.

11. Kuwait

29. On 27 April 2015, a number of special procedure mandate holders referred to serious concerns over acts of intimidation and reprisal against Nawaf al-Hendal, founder of the Kuwait Watch Organization for Human Rights (A/HRC/30/27, case KWT 2/2015). On 22 January 2015, while in Geneva to attend the review of Kuwait during the universal periodic review, scheduled for 28 January, Mr. Al-Hendal learned that an arrest warrant had been issued against him by the State security apparatus of the Ministry of the Interior in relation to messages he had posted on his Twitter page. On 1 February, upon arrival at Kuwait International Airport, Mr. Al-Hendal was stopped and interrogated by officials on his participation in the review of Kuwait. On 23 March, three days after returning from Geneva where he delivered a statement to the Human Rights Council, Mr. Al-Hendal monitored – without participating in – a protest outside the National Assembly in Kuwait City in his capacity of Director of his organization. As police officers physically dispersed the crowd, they reportedly identified Mr. Al-Hendal and assaulted, arrested and detained him at the Criminal Investigations Department in Al-Salmiya. On 25 March, Mr. Al-Hendal was released from detention but prohibited from travelling pending his trial on charges of "participating in an illegal demonstration". The Government, in three separate replies, stated that no reprisals had been committed against Mr. Al-Hendal, and the travel ban imposed on Mr. Al-Hendal had been lifted (ibid.).[6]

12. Maldives

30. In a communication addressed on 3 October 2014 to the Government, a number of special procedure mandate holders referred to allegations of reprisals against the Human Rights Commission of Maldives. After having submitted a report to OHCHR on 14 September 2014 in view of the review of Maldives at the twenty-second session of the universal periodic review, and publishing it on its website, the Supreme Court of Maldives summoned the five members of the Commission to appear before the Court and, on 22

[5] See OHCHR, "Statement by the Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his visit to the Republic of Kazakhstan", 27 January 2015 and "Human Rights Council discusses freedom of opinion and expression and freedoms of peaceful assembly and of association", 17 June 2015.

[6] Ibid.

September, initiated a *suo moto* case against them. On 24 September, at the first hearing, the members were charged with "spreading wrongful information and giving a wrongful impression of the constitutional mandate of the Supreme Court". On 30 September, at the second hearing, the Commission members were allegedly questioned about the content of report prepared for the universal periodic review (A/HRC/28/85, case MDV 2/2014). At the time of finalization of the present report, no response had been received from the Government to the communication sent by the special procedures.

31. On 6 May 2015, during its review, the Government stated that the Human Rights Commission staff members enjoyed immunity from prosecution or complaints for acts done in good faith within the purview of their functions. Given however that the case against the Commission members had yet to be decided, the Government deemed it inappropriate to comment further on the issue. On 19 May, after having received reports that the Supreme Court had found the Commission's submission for the universal periodic review was unlawful and declared that the Commission had to comply with a set of 11 guidelines, the United Nations High Commissioner for Human Rights, in a press release, stated that the judgement appeared to be "designed to severely undermine its ability to engage with the United Nations human rights system".[7] On the same day, two special procedure mandate holders jointly called upon the Supreme Court of Maldives to reconsider its verdict.[8] On 19 June, the President of the Human Rights Council raised the case with the Council Bureau and referred to it in a general manner when, at the twenty-ninth session of the Council, he opened the general debate under item 6 on 26 June 2015.

13. Myanmar

32. On 12 August 2014, a number of mandate holders referred to allegations of reprisal against Sein Than, a human rights defender and leader of a movement denouncing the confiscation and demanding the restitution of Mi Chaung Kan land (A/HRC/28/85, case MMR 5/2014). On 31 July 2014, while on his way to the United Nations office to deliver documents for the Special Rapporteur on the situation of human rights in Myanmar, in follow-up to their meeting during her visit to the country earlier that month, Mr. Than was reportedly arrested with force, causing him injury, by 10 plain-clothed individuals who allegedly did not present an arrest warrant. He was reportedly subsequently detained on remand pending trial at Insein prison on charges related to the conduct of a peaceful assembly or procession without the permission of the authorities. In reply, on 27 October 2014, the Government affirmed that Mr. Than had been lawfully arrested, detained and sentenced for having organized processions and staged protests in different townships between March and May 2014 without prior approval (ibid.).

14. Oman

33. On 29 September 2014, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, with two other mandate holders, referred to allegations of reprisals against Tariq al Sabbahi in relation to his visit to the country from 8 to 13 September 2014 (A/HRC/28/85, case OMN 2/2014). On 10 and 11 September, after having met with the Special Rapporteur, Mr. Al Sabbahi received a telephone call summoning him to meet with officers from the internal security department. On 14 September, during the meeting, the internal security officers reportedly informed him that he was forbidden from contacting the Special Rapporteur or United Nations staff members, threatened him with

[7] OHCHR, "Supreme Court judgement gravely undermines Maldives Human Rights Commission – Zeid", 19 June 2015.

[8] OHCHR, "Maldives: UN experts urge Supreme Court to reconsider decision against Maldivian Human Rights Commission", 19 June 2015.

legal action and affirmed that such contacts could be authorized only by the Human Rights Commission of Oman. The Government, in its response of 16 December, denied the allegations of harassment, and explained that the main purpose of the meeting had been to "discuss the comments Tariq had made on the human rights situation in Oman in light of the contact he had with the Special Rapporteur" and that "the current procedures of the National Human Rights Committee allow individuals to submit any comments they may wish to make concerning human rights issues [...] so that individuals do not have to address those foreign organizations themselves" (ibid.).

34. Following reports of reprisals against Said Ali Said Jadad, a human rights defender advocating for democratic reforms in the country, three joint communications were addressed by mandate holders to the Government, on 11 November and 16 December 2014, and 29 January 2015. After meeting with the Special Rapporteur during his above-mentioned country visit, Mr. Jadad was reportedly subjected to greater surveillance. On 31 October 2014, while on his way to board a flight to Istanbul to attend a workshop for human rights defenders, Mr. Jadad was stopped, his passport confiscated and informed of a travel ban issued against him by border control officers at Muscat International Airport. On 10 December, members of the Oman Royal Police and the Internal Security Forces reportedly arrested Mr. Jadad at his house in Salalah. He was released on 22 December 2014 after his son's passport was confiscated as a guarantee, but rearrested on 21 January 2015, reportedly on charges of, inter alia, undermining the prestige of the State (A/HRC/28/85, case OMN 3/2014, and A/HRC/29/50, cases OMN 5/2014 and OMN 1/2015). In a press release of 30 January 2015, mandate holders urged the Government to release Mr. Jadad and to guarantee that no human rights defender in the country would be subjected to any form of reprisal.[9] In response to the second communication and the press release, on 20 February 2015, the Government rejected the allegations, explaining that Mr. Jadad had been arrested not for having met with the Special Rapporteur but because of violation of laws and regulations (A/HRC/29/50, case OMN 5/2014).

35. On 27 March 2015, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, together with two other mandate holders,raised concerns at alleged acts of intimidation and reprisal against Mohammad al-Fazari, a human rights activist and blogger, also for having met with him during his country visit (ibid., OMN 2/2015). On 22 December 2014, Mr. Al-Fazari was reportedly prevented from boarding a flight at Muscat International Airport and subjected to a de facto travel ban when his travel documents, including his passport, were confiscated. He was reportedly summoned to appear before the Special Division of the Omani Police in Muscat, where he was interrogated for eight hours without any information on the reason for his interrogation or de facto travel ban. His passport was not returned to him (ibid.). At the time of finalization of the present report, no response had been received from the Government. In his oral presentation to the Human Rights Council at its twenty-ninth session, the Special Rapporteur reiterated his dismay at all alleged cases of reprisals[10] and, in his report insisted that the Government clarify and determine whether reprisals occurred and keep him informed of the status of investigations, prosecution and protection plans put in place (A/HRC/29/25/Add.3, paras. 579-581). On 17 June 2015, in its oral reply to the Special Rapporteur's presentation, the delegate of Oman made no reference to the allegations of reprisals.

[9] OHCHR, "Oman: UN experts call for the immediate release of prominent rights activist as reprisals continue unchecked", 30 January 2015.

[10] OHCHR, "Human Rights Council discusses freedom of opinion and expression and freedoms of peaceful assembly and of association", 17 June 2015.

15. Saudi Arabia

36. Samar Badawi, a human rights defender advocating for women's rights and the release of her husband, Waleed Abu al-Khair, from prison, was the subject of a communication sent by a number of mandate holders on 6 January 2015 (A/HRC/29/50, case SAU 16/2014). On 16 September 2014, while Ms. Badawi was delivering her statement to the Human Rights Council at its twenty-seventh session, the delegation of Saudi Arabia made two points of order. Following her statement, Ms. Badawi reportedly received threats for having publicly raised the case of her husband before the Council. On 3 December, Ms. Badawi was reportedly prevented by security officials at King Abdulaziz International Airport from boarding a flight to Belgium to participate in a human rights forum, and was informed that a travel ban had been issued against her for an indefinite period (ibid.). In its reply of 13 May 2015, the Government stated that the allegations of reprisals were incorrect, that Ms. Badawi had been accused of having committed a number of criminal offences punishable by law and that the travel ban placed on her related to those charges (see A/HRC/30/27, case SAU 16/2014).

16. South Sudan

37. During the twenty-eighth session of the Human Rights Council, the President of the Council was informed of alleged reprisals against a civil society representative who planned to attend the session. On 13 March 2015, the President reported to the Bureau of the Council that he had met with the Permanent Representative of South Sudan in order to seek clarifications and that the State concerned had subsequently provided information on the current situation of the individual. The President stated that he would continue to follow the case, and reiterated his deep concern about cases of intimidation and reprisal against those seeking to engage with the United Nations in the field of human rights.

17. Syrian Arab Republic

38. On 21 November 2014, a number of mandate holders referred to allegations of reprisals against Jdei Nawfal, Director of the Centre for Democracy and Civil Rights in Syria, and Omar al-Shaar, a media activist and blogger (A/HRC/28/85, case SYR 8/2014). Both men participated in a workshop organized by the OHCHR Regional Office for the Middle East in Beirut from 28 to 30 October 2014. While returning to the Syrian Arab Republic on 31 October, Mr. Nawfal and Mr. Al-Shaar were reportedly arrested by Syrian security forces at the Lebanese-Syrian border crossing and detained in an office at the Syrian immigration post for approximately eight hours. They were then reportedly driven to the office of the Syrian State security intelligence agency in the area of Mazzeh, Rif Dimashq, after which their fate and whereabouts were reported as unknown (ibid). At the time of finalization of the present report, no response had been received from the Government.

18. Tajikistan

39. On 2 June 2014, a number of mandate holders referred to alleged acts of reprisal against Sadriddin Toshev, a detainee at Khujand prison, for having cooperated with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment during his official visit to Tajikistan in May 2012 (A/HRC/28/85, case TJK 3/2014). On 5 November 2012, Mr. Toshev was reportedly beaten and tortured in front of approximately 40 other prisoners by prison officials at Khujand prison who explicitly referred to his interaction with the Special Rapporteur and the United Nations more generally. Mr. Toshev was afterwards reportedly charged with fraud for deliberately inflicting wounds on his body with the aim of discrediting prison officials and for the distribution of false information, tried in closed court proceedings by the Khujand city court and, in October 2013, sentenced to nine years of imprisonment. On 25 January 2014, the

Sughd regional court reportedly rejected his appeal. The Government, in its response of 27 August 2014, indicated that criminal proceedings had been launched into this case and that by Mr. Toshev's own testimony it had become clear that there had been no acts of reprisal on the part of prison system employees (ibid.). The Special Rapporteur, in his report, stated that the response from the Government did not sufficiently address the concerns raised and should have made a serious attempt to ensure accountability for the seemingly grave violations committed against Mr. Toshev (A/HRC/28/68/Add.1, paras. 529-532).

19. Venezuela (Bolivarian Republic of)

40. Allegations of acts of intimidation and reprisal against Alfredo Romero, Executive Director of Foro Penal Venezolano, a non-governmental organization representing victims of arbitrary detention and torture, his family and members of the organization were addressed to the Government on 19 February 2015 by a number of mandate holders (A/HRC/29/50, case VEN 2/2015). Mr. Romero travelled to Geneva in November 2014 to meet with representatives of the United Nations human rights system. After his return, he, his family and the organization Foro Penal Venezolano were mentioned repeatedly on a Venezuelan television programme, "Con el Mazo Dando", during which they were reportedly referred to as conspirators against the system in the light of their cooperation with international human rights instruments and suspected of receiving funding from foreign countries. In addition, Foro Penal Venezolano reportedly received anonymous threats via Twitter. At the time of finalization of the present report, no response had been received from the Government.

20. Viet Nam

41. On 25 November 2014, mandate holders raised allegations of acts of intimidation and reprisal in relation to the country visit of the Special Rapporteur on freedom of religion or belief to Viet Nam in July 2014 (A/HRC/28/85, case VNM 11/2014). On 27 and 28 July 2014, a large number of independent Hoa Hao Buddhists were reportedly threatened and prevented from meeting with the Special Rapporteur during his visit to An Giang Province by police officers who had set up checkpoints in the area; the ashram and home of Bui Van Trunga were surrounded by police officers accompanied by a large number of individuals; Nguyen Hoang Nam was attacked by policemen and transported him to an unknown location where they left him with a head injury; and Bui Thi Diem Thuy noticed that she was being followed by four plain-clothed agents and thus decide not to meet the Special Rapporteur. Several Duong Van Minh believers also reported being harassed, questioned and some of them assaulted after having met with the Special Rapporteur. On 7 August 2014, Ma Van Pa was reportedly knocked unconscious after being hit by a motorcycle and his family warned by an unknown individual not to pursue the case; on 9 and 10 August, Ly Van Dung was reportedly followed by police officers when visiting his father-in-law in another village; and on 28 August 2014, Dao Dinh Hoang was reportedly visited by two police officers and questioned about his meeting with the Special Rapporteur (ibid.).

42. Bui Thi Kim Phuong and Nguyen Bac Truyen, who met with the Special Rapporteur in Ho Chi Minh City on 25 July 2014, were reportedly followed and threatened by the police while travelling to meet the Special Rapporteur at their house in Dong Thap Province, to which they had not been able to return since February 2014 when they were expelled. The area near their house was however surrounded by police officers and they were unable to meet the Special Rapporteur. On 28 August, Mr. Truyen was reportedly hit by a motorcycle in front of his temporary place of residence in Ho Chi Minh City and seriously injured. While the perpetrator was identified as one of the security agents who had been monitoring Mr. Nguyen and his wife, allegedly no investigation was conducted. Subsequently, on 5 November, three individuals reportedly set up a table at the doorstep of the residence of Mr. Nguyen and his family, blocking its entrance. Only when an official

from the General Consulate of France, who had been called for assistance, arrived and took photographs did the three individuals leave. The next morning, two neighbourhood guards from the police unit armed with batons were stationed in front of the residence (ibid.).

43. In his mission report, the Special Rapporteur expressed his deep concern and outrage at these reports and reiterated his request to the Government of Viet Nam to reconfirm its guarantee that none of the individuals with whom he met or intended to meet would be subjected to any form of reprisal (A/HRC/28/66/Add.2, paras. 4, 83 (s) and 84 (c)). In its response of 16 March 2015, to the joint communication (see A/HRC/29/50, case VNM 11/2014) and in its comments on the mission report (A/HRC/28/66/Add.4), the Government affirmed that it had cooperated fully with the Special Rapporteur during his visit and that the allegations had been fabricated, ill-intended and sought to "distort and tarnish" the situation of human rights in Viet Nam. In his oral statement to the Human Rights Council at its twenty-eighth session, on 10 March 2015, the Special Rapporteur emphasized that the acts of reprisal committed during his visit were a blatant violation of the terms of reference of the visit, to which the delegate of Viet Nam responded that there had been "no such harassment, threat nor reprisal against the persons who met with the SR as the SR just mentioned. We deeply regret this inaccurate misleading information, and probably misunderstandings".

IV. Conclusions and recommendations

44. The present report shows that acts of intimidation and reprisal against individuals and groups seeking to cooperate, cooperating or having cooperated with the United Nations in the field of human rights continue. The types of acts reported seem to have become more varied and severe over time, targeting not only the individuals or groups concerned but also their families, legal representatives, non-governmental organizations and anyone linked to them. This is a matter of grave concern to me and to the United Nations system as a whole.

45. Looking at the cases included in the present and in previous reports, a number of recurring, though non-exhaustive, types of act may be identified. They encompass threats and harassment by government officials, including through public statements, media smear campaigns and police surveillance, but also forced closure of organizations, including through the introduction of new legislation, physical attacks, travel bans, arbitrary arrest, detention, including incommunicado and solitary confinement, charges and sentencing, sometimes to lengthy prison terms, torture and other cruel, inhuman or degrading treatment or punishment, including sexual violence, denial of access to medical attention and, sadly, even death. Such acts not only show a complete disregard for the functioning of the United Nations as a whole but also highlight the fact that, despite repeated calls for action by States to end all such violations, impunity continues to surround them.

46. While it is the primary obligation of the State to protect those who cooperate with the United Nations in the field of human rights and to ensure that they may do so safely and without hindrance, the cases described in the present report suggest, worryingly, that acts of intimidation and reprisal are often perpetrated by government officials or representatives of the State.

47. I reiterate that any act of intimidation or reprisal against individuals or groups for their engagement with the United Nations, its mechanisms and representatives in the field of human rights is completely unacceptable and must be halted, immediately and unconditionally. Civil society representatives are indispensable partners for the United Nations. Any act of intimidation or reprisal against them undermines the effective functioning of the United Nations as a whole. We must therefore step up

efforts and collectively condemn such acts and take all measures necessary to ensure that all individuals and groups, without exception, may cooperate freely and safely with the United Nations, its mechanisms and representatives in the field of human rights.

48. I welcome the steps taken by the different parts of the United Nations, in particular the President of the Human Rights Council, the special procedures and the human rights treaty bodies, in developing ways of addressing the issue of reprisals in a more coherent and systematic manner, and encourage them to continue to coordinate their efforts in resolving this system-wide issue. I also welcome the efforts made by a number of States to provide protection to those individuals and groups engaging with the United Nations in the field of human rights, including during the sessions of the Human Rights Council in Geneva. Nonetheless, more concerted action is still urgently needed to address this issue at all levels. I urge all concerned to work cooperatively together to ensure that the current deadlock facing Council resolution 24/24 is overcome without further delay. In the meantime, I emphasize that the United Nations will continue to work for a solid and coordinated response to reprisals throughout the United Nations system as a whole.

49. In 2014 I also called upon States to take action at the national level and to refrain from, to take all appropriate measures to prevent the occurrence of, to ensure accountability for and to consider the establishment of a national focal point to address all acts of intimidation or reprisal against individuals and groups who seek to cooperate, are cooperating or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights. I urge all States to follow up and provide information, as appropriate, to the Human Rights Council on all measures taken, including on cases mentioned in the present report. In this context, I also recommend that the Council devote sufficient time to the discussion of the present report, and welcome the initial statements made by a number of States during the twenty-seventh session.

50. I encourage all stakeholders, including international and regional organizations, Member States, national human rights institutions, civil society and academic institutions, to continue to contribute to the future consideration of this issue by the Human Rights Council and the United Nations system as a whole.

Annex

[English only]

Follow-up information on cases of reprisal included in previous reports

1. China

1. In my previous report, reference was made to Cao Shunli, who had been campaigning for transparency and greater participation of civil society in the universal periodic review process of China and reportedly as a result was arrested, detained and denied medical treatment resulting in her death on 14 March 2014 (A/HRC/27/38, paras. 17-19). In his report of 10 June 2015, the Special Rapporteur on the rights to freedom of peaceful assembly and of association regretted not having received a response from the Government to the joint communication sent on 4 March 2014 (A/HRC/29/25/Add.3, paras. 240-244). The Rapporteur reiterated his utmost concern that the death of Ms. Cao might have been a reprisal for her continued cooperation with the United Nations in the field of human rights and urged the authorities to inform him of the results of the investigations of the circumstances leading to Ms. Cao's death, as soon as possible (ibid.). At the time of finalization of the present report, no response had been received from the Government.

2. Malaysia

2. The Coalition of Malaysian Non-Governmental Organizations was discussed in my previous report in relation to its engagement with the universal periodic review process of the country (A/HRC/27/38, para. 28). The Government of Malaysia by letter of 9 September 2014 reaffirmed its continuous support and commitment to the universal periodic review process and stated that all relevant stakeholders had been able to freely participate in Malaysia's review without any restrictions. According to the Government, the allegations of the Coalition were "utterly baseless" (A/HRC/28/85, case MYS 1/2014). In its press statement issued on 8 January 2014, the Malaysian Secretary-General of the Ministry of Home Affairs had not declared the Coalition illegal or unlawful but rather highlighted that it was not registered under the Societies Act 1996. The Government confirmed that no investigation and judicial or other inquiries were carried out in relation to the Coalition as no report by or against the Coalition were lodged with the relevant authorities (ibid.). The Special Rapporteur on the situation of human rights defenders, in his report of 4 March 2015, while encouraged by the fact that the Coaltion was no longer considered illegal, reiterated his grave concern at the apparent acts of reprisal against them (A/HRC/28/63/Add.1, para. 280).

3. Russian Federation

3. The "Law on Non-commercial Organizations which Carry Functions of Foreign Agents" and allegations of reprisals against the Anti-Discrimination Center Memorial via that law were mentioned in my previous report (A/HRC/27/38, para. 43). On 20 June 2014, mandate holders raised further concerns over the enforcement of, and amendments to, the Law and the Memorial with the Government (A/HRC/28/85, case RUS 5/2014). On 8 April 2014, the Saint Petersburg Court upheld that the Memorial was performing functions of a "foreign agent", reportedly for submitting information on police actions to the Committee against Torture. The Memorial refused to register as such and decided to dissolve its structure and continue its activities without registration. On 4 June 2014, the Duma voted in favour of amending the Law, reportedly allowing the Ministry of Justice to register, at its own initiative and without a court decision, non-commercial organizations as "foreign

agents" (ibid.). In its response dated 25 August 2014, the Government explained the procedures followed in the case of the Memorial and indicated that such registration should not be considered as interference of any kind in the rights to freely express opinions or form associations but that it aims at ensuring transparency and openness in their activities (ibid.). The Special Rapporteur on the rights to freedom of peaceful assembly and of association, in his report of 10 June 2015, expressed his continued grave concern in relation to the Law and the targeting of human rights organizations that engage with the United Nations human rights mechanisms (A/HRC/29/25/Add.3, para. 436).

4. Sri Lanka

4. In my previous report reference was made to Visuvalingam Kirupaharan, General Secretary of the Tamil Centre for Human Rights, in relation to his participation in the twenty-fifth session of the Human Rights Council (A/HRC/27/38, para. 34). The Government, on 24 July 2014, sought clarifications from mandate holders who had brought the allegations of acts of intimidation against Mr. Kirupaharan to its attention, indicating that there was no connection between the alleged sequence of events and the authorities (A/HRC/27/72, case LKA 5/2014). Mandate holders in response transmitted clarifications and their observations on the case to the Government referring to the fact that "States are the primary duty bearers in protecting, defending and promoting human rights, and as such, should address violations of human rights committed by both State and non-State actors" (A/HRC/28/85, case LKA 12/2014). At the time of finalization of the present report, no response had been received from the Government.

5. My previous report also discussed the case of 24 Sri Lankan civil society organizations that had reportedly been accused by the State-controlled Sri Lanka Rupavahini (TV) Corporation, in its English news bulletin, of having issued a joint civil society memorandum to the HRC (A/HRC/27/38, para. 33). On 24 September 2014, the Government of Sri Lanka, in response to the joint communication transmitted by mandate holders, stated that the Sri Lanka Rupavahihi Corporation was exercising its freedom of speech and expression within the set legal framework in Sri Lanka, however "unpalatable the contents of the newscast would have been to the said human rights defenders". If the human rights defenders felt wronged by such newscast they could invoke a civil action for damages under the laws of Sri Lanka for defamation (A/HRC/28/85, case LKA 4/2014).

5. United Arab Emirates

6. The case of Osama al-Najjar, who had reportedly become the subject of reprisals after meeting with the Special Rapporteur on the independence of judges and lawyers during her visit to the United Arab Emirates in February 2014, was included in my previous report (A/HRC/27/38, para. 37-38). The Special Rapporteur, in her oral statements to the Human Rights Council and the General Assembly in 2014, called on the authorities to take immediate measures to release Mr. Al-Najjar and open an independent investigation into the circumstances of his arrest and the serious allegations of torture. On 2 April 2015, mandate holders raised further allegations concerning Mr. Al-Najjar with the Government (A/HRC/30/27, case ARE 2/2015). On 25 November 2014, after a trial that reportedly lacked respect for the most basic due process and fair trial guarantees, Mr. Al-Najjar was sentenced to three years in prison and fined 500,000 Emirati Dirhams (about 136,000 USD) on charges of, inter alia, contacting foreign organizations and presenting inaccurate information (ibid.). The Government, in its response of 30 April 2015, listed procedural guarantees that had been in place in the case of Mr. Al-Najjar (ibid.). In his report of 4 March 2015, the Special Rapporteur on the situation on human rights defenders recalled that the Government had not responded to the earlier communication dated 16 April 2014 and stated that he was still awaiting a detailed response from the Government to the allegations and questions raised (A/HRC/28/63/Add.1, paras. 554-555).

6. Venezuela (Bolivarian Republic of)

7. The case of Judge Maria Lourdes Afiuni Mora has been raised in each of my previous reports since 2010 (A/HRC/14/19, para. 45-47, A/HRC/18/19, para. 87-90, A/HRC/21/28, para. 68-69, A/HRC/24/29, para. 46-48 and A/HRC/27/38, para. 46). The Working Group on Arbitrary Detention in its latest report again expressed its concern over the continued detention under house arrest of Ms. Afiuni, which it considers as a measure of reprisal against her for ordering the conditional release of Mr. Eligio Cedeño after the WGAD in Opinion No. 10/2009 had considered his detention arbitrary (A/HRC/30/36, para. 38). The Working Group reiterated its call on the Government of Venezuela to release Ms. Afiuni and to provide her with effective and adequate reparations (ibid.). In its concluding observations on the combined third and fourth periodic reports of Venezuela, CAT regretted that no investigation had so far been opened on the case of Judge Afiuni and stated that the Government should without delay conduct a thorough and impartial investigation into the allegations of torture and ill-treatment, including sexual assault, of Ms. Afiuni during her detention (CAT/C/VEN/CO/3-4, para. 16).